

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Alicia M. Smith-King,)	C.A. No. 4:08-637-TLW
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
VF Outlet Store #38,)	
)	
Defendant.)	
_____)	

The Plaintiff, proceeding *pro se*, brings this action based on her alleged wrongful termination from employment with Defendant. The Plaintiff seeks monetary damages.

On April 22, 2008, Defendant moved to dismiss Plaintiff's claims under Rule 12(b)(6). Plaintiff did not respond to this motion. On October 1, 2008, United States Magistrate Judge Thomas Rogers, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.), filed a Report and Recommendation ("the Report"). In his Report, Magistrate Judge Rogers recommends that the Plaintiff's complaint be dismissed under Rule 41(b) for failure to prosecute. In the alternative, Judge Rogers recommends that the Defendant's motion to dismiss be granted. On October 20, 2008, the Plaintiff filed objections to the Magistrate's Report.

This Court is charged with reviewing the Magistrate's Report and the Plaintiff's objections thereto. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However,

the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of this standard, the Court has carefully reviewed, de novo, the Report and the objections thereto. Plaintiff filed objections to the Report, reflecting that she does intend to pursue this action. Therefore, dismissal under Rule 41(b) is not appropriate. However, the Court does accept the Magistrate's recommendation of dismissal under Rule 12(b)(6). For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 28); Plaintiff's objections are **OVERRULED** (Doc. # 30); and Plaintiff's complaint is dismissed.

IT IS SO ORDERED.

S/ Terry L. Wooten
TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

January 27, 2009

Florence, South Carolina